

Appl. No. 09/909,630
Amdt. Dated January 19, 2005
Reply to Office Action of July 19, 2004

REMARKS

Applicant thanks the Examiner for accepting the arguments and corrections with respect to the previous rejections under Kohno et al., U.S. Patent No. 6,462,784, and Bedard, U.S. Patent No. 5,793,438. Additionally, Applicant acknowledges the requirement for a new Oath and Declaration identifying the correct provisional application number and filing date of the Provisional application. A copy of this corrected Oath will be submitted as soon as it is received. However, Applicant submits that no new oath is required because the original oath correctly identifies the application by filing date and serial number as required by the referenced section of 37 CFR.

Applicant respectfully requests reconsideration of the prior art rejections set forth by the Examiner under 35 U.S.C. § 103. Applicant respectfully submits that the prior art references of record, whether considered alone or in combination, fail to either teach or suggest Applicant's presently claimed invention. More specifically, Applicant's claimed invention is directed to providing an incremental change in an attribute associated with the object for each of a plurality of times that the object has been selected. Consequently, an object's attribute such as, for example, the color of the object is incrementally changed from an original state of light blue to a gradually increasing darker shade of blue each time the object is selected. In contrast, the prior art references merely disclose two operating states for an object, one state with a first attribute when the object is selected and another state with a second attribute when the object is not selected. Applicant submits that the prior art

Appl. No. 09/909,630
Amdt. Dated January 19, 2005
Reply to Office Action of July 19, 2004

references of record provide no teaching or suggestion whatsoever regarding this advance in the art.

More specifically, Applicant's claimed invention advantageously allows users to readily identify how often an object has been selected, and beyond simply knowing when the object has been selected, the user is provided with information concerning the number of selections of that object. As the Examiner concludes, the Kohno et al. reference and the Bedard reference, either alone or in combination, simply do not disclose or suggest modifying an attribute incrementally in a common direction to change the attribute of the object each time the object is selected for a plurality of selections.

In order to overcome this deficiency, the Examiner asserts that the Microsoft Sound Recorder 4.0 discloses modification of the play button's attribute from an enabled state to a disabled state. Furthermore, the Microsoft Sound Recorder 4.0 discloses changing a the color of the play button from black in the enabled state to gray in the disabled state and back again to black when the button is re-enabled. First, Applicants note that combining references in order to defeat patentability has not been allowed by the Federal Courts unless evidence of a teaching or suggestion of such a combination is present. The U.S. Court of Appeals for the Federal Circuit held in *Dembiczak* that "Combining prior art references without evidence of such a suggestion, teaching, or motivation simply takes the inventor's disclosure as a blueprint for piecing together the prior art to defeat patentability." *In re Dembiczak*, 50 USPQ2d, 1614, 1617 (1999). In this case, there is no suggestion or motivation for the combination of the Microsoft Sound Recorder 4.0 interface with Kohno et al., Bedard, or any other electronic program guide reference. Consequently, such a combination is inappropriate.

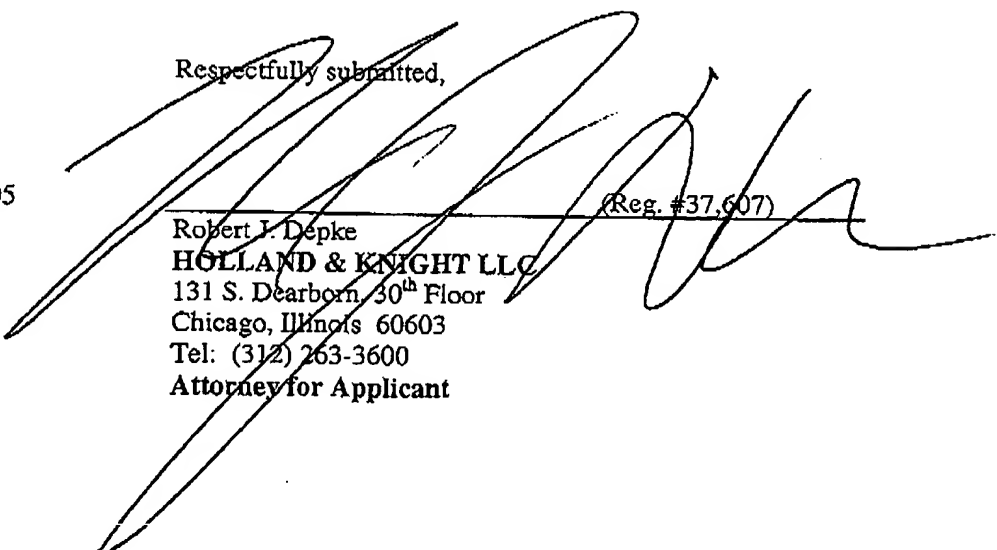
Appl. No. 09/909,630
Amdt. Dated January 19, 2005
Reply to Office Action of July 19, 2004

Second, the Microsoft Sound Recorder simply discloses a two state play button. The Examiner correctly notes that the play button merely changes from black to grey when selected and reverts back to black. This is significantly different from the present invention which incrementally changes an object's attribute, i.e. gradually changes the attribute multiple times wherein each change is associated with a selection of the object. For example, the present invention requires that the attribute of an object must be changed from black, to a dark grey when it is first selected, to a subsequently lighter grey when it is later selected, to a further lighter grey when the object is selected again, etc. Therefore, Microsoft Sound Recorder 4.0, either alone or in combination, fails to teach the advances in the present invention.

Accordingly, in light of the foregoing, Applicant respectfully requests the Examiner now allow all claims in the Application.

Respectfully submitted,

Date: January 19, 2005


Robert J. Depke
HOLLAND & KNIGHT LLC
131 S. Dearborn, 30th Floor
Chicago, Illinois 60603
Tel: (312) 263-3600
Attorney for Applicant

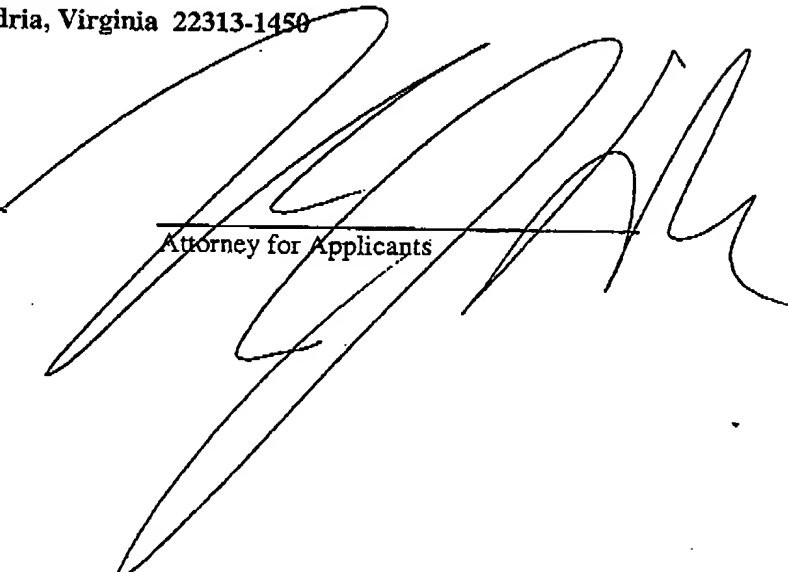
(Reg. #37,607)

Appl. No. 09/909,630
Amdt. Dated January 19, 2005
Reply to Office Action of July 19, 2004

CERTIFICATE OF MAILING

I hereby certify that this correspondence is being deposited with the United States
Postal Service as First Class Mail on January 19, 2005 in an envelope addressed to:

Mail Stop -Fee Amendment
Commissioner for Patents
P.O. Box 1450
Alexandria, Virginia 22313-1450



Attorney for Applicants